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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**  
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9 THOMAS DUBE, as Parent and Legal Guardian of  
10 JORDAN DUBE, a minor,

11 Plaintiffs,

12 v.

13 JENNIFER HOGAN; JACOB HOGAN; WESTERN  
14 UNITED INSURANCE COMPANY dba AAA  
NEVADA INSURANCE COMPANY; and DOES  
15 1–10; and ROE ENTITIES 11 through 20, inclusive,

16 Defendants.

Case No.: 2:14-cv-00495-JAD-VCF

**ORDER DENYING MOTION TO  
REMAND [Doc. 6]**

17 Plaintiff Thomas Dube sues defendants for injuries his son Jordan allegedly sustained in a  
18 motor vehicle accident.<sup>1</sup> Defendant Western United Insurance Company dba AAA Nevada  
19 Insurance Company removed this case from Nevada State Court based on diversity jurisdiction.<sup>2</sup>  
20 Plaintiff now asks this Court to remand this case back to state court arguing that the case value does  
21 not meet the \$75,000 jurisdictional threshold for federal jurisdiction. As defendant has demonstrated  
22 that plaintiff values his damages at \$100,000, the motion to remand is denied.

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26 <sup>1</sup> Doc. 3 at 4.

27 <sup>2</sup> Doc. 1 at 2. Plaintiff is a resident of Nevada. Defendant Jennifer Hogan is a resident of Arizona  
28 and Defendant Jacob Hogan is a resident of Mississippi. Defendant Western United Insurance Company  
dba AAA Nevada Insurance Company is incorporated in Indiana with its principal place of business in  
Indiana.

## Discussion

### A. Motion to Remand

“Federal courts are courts of limited jurisdiction.”<sup>3</sup> There is a strong presumption against removal jurisdiction and “federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance.”<sup>4</sup> Therefore the defendant always has the burden of establishing that removal is proper.<sup>5</sup> This burden is usually satisfied if the plaintiff claims a sum more than the threshold requirement.<sup>6</sup> If the amount of plaintiff’s claim is unclear, the defendant must prove that it is more likely than not that the jurisdictional amount has been met.<sup>7</sup> Defendants may rely upon facts presented in the removal petition and any summary-judgment-type evidence that is related to the amount-in-controversy.<sup>8</sup> Conclusory allegations do not overcome the presumption against removal jurisdiction or satisfy the defendant’s burden of proving the case.<sup>9</sup> The defendant does not need to predict the trier of fact’s eventual award with certainty.<sup>10</sup>

The federal procedure for removal of civil actions requires a defendant to include in its removal petition a “short and plain statement of the grounds for removal.”<sup>11</sup> Western United represents in its statement of removal that Plaintiff “demanded” the tender of “the full value of the UM policy, \$100,000.00,”<sup>12</sup> and it attaches to its opposition to the motion for remand plaintiff’s

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<sup>3</sup> *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377 (1994).

<sup>4</sup> *Gaus v. Miles*, 980 F.2d 564, 566 (9th Cir. 1992).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* (citing *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288–99 (1938)).

<sup>7</sup> *Id.*; *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 395, 404 (9th Cir. 1996).

<sup>8</sup> *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003).

<sup>9</sup> *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004) (citations omitted).

<sup>10</sup> *Id.*

<sup>11</sup> 28 U.S.C. § 1446.

<sup>12</sup> Doc. 11 at 3.

counsel's letter demanding the full \$100,000 policy limits.<sup>13</sup> The Ninth Circuit has recognized that settlement letters may provide a reasonable estimate of a plaintiff's claim for removal jurisdiction purposes.<sup>14</sup> Plaintiff's counsel's concession that "counsel does not intend to seek an award more than \$75,000"<sup>15</sup> is of no consequence. As the United States Supreme Court long ago acknowledged in *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, "a plaintiff may not defeat removal by subsequently changing his damage request, because post-removal events cannot deprive a court of jurisdiction once it has attached."<sup>16</sup> At the time the case was removed, plaintiff was taking the position that this case is worth \$100,000, which satisfies the jurisdictional threshold and vests this Court with jurisdiction.

#### **B. Request for Rule 11 Sanctions**

Defendant's request for an award of fees and costs for having to respond to a motion it considers "frivolous" because the plaintiff values the case at \$100,000<sup>17</sup> is denied. Defendants have not even attempted to demonstrate that they satisfied the procedures for obtaining Rule 11 sanctions.<sup>18</sup>

#### **Conclusion**

Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion to Remand [#6] and Defendant's request for Rule 11 Sanctions are both DENIED.

DATED: July 22, 2014

  
JENNIFER A. DORSEY  
UNITED STATES DISTRICT JUDGE

<sup>13</sup> Doc. 12-1. Plaintiff's counsel does not dispute the authenticity of this document.

<sup>14</sup> *See Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002).

<sup>15</sup> Doc. 14 at 3.

<sup>16</sup> *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938).

<sup>17</sup> *See* Doc. 12 at 6.

<sup>18</sup> *See* Fed. R. Civ. Proc. 11(c)(2).